Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

CATHERINE STOVE,

Petitioner(s),

v.

PHILADELPHIA SCHOOL DISTRICT,

Respondent,

On Petition For Writ Of Certiorari
To The United States Court of Appeals
For The Third Circuit

PETITION FOR A WRIT OF CERTIORARI

CATHERINE STOVE
Counsel of Record
CATHERINE STOVE - PROSE
7632 B WILLIAMS WAY
ELKINS PARK, PA 19027
(215) 576-0652

37pp

QUESTION PRESENTED

Did Magistrate Honorable Judge M. Faith Angell abuse her discretion, commenting on my pending civil case, according to 10p Chapter 6, at my pretrial, January 6, 1999, at District Court, 601 Market Street, Philadelphia, Pennsylvania?

LIST OF PARTIES

This action was filed by Catherine Stove, Pro se, against the Philadelphia School District, which is a public agency.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
LIST OF PARTIES	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	v
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	2
A. Factual Background	2
B. Procedural Background	3
1. District Court Proceedings	3
2. The Third Circuit Decision	4
REASONS THE COURT SHOULD GRANT STOVE'S PETITION FOR A WRIT OF CERTIORARI	5

TABLE OF CONTENTS - Continued

Page

A. I, Catherine Stove, Pro se, sanctioned such a departure by a lower court, requests this court call for an exercise of the court's supervisory power, and my Question Presented. I feel should be question of Federal law.....

B. The Third Circuit - saying on behalf of The School District of Philadelphia - that there was no abuse in their discretion, 10p Chapter 6. .....

C. The Third Circuit had permission with authority to abuse their discretion, and that errors of law are present, conflicts with the Eleventh Circuit decision .....

CONCLUSION..... 16

TABLE OF AUTHORITIES

Page

Cases

McDonnell Douglas Corp. v. Green, 411 U. S. 792 (1973) .....

Gray v.York Newspapers, Inc., 957 F.2d 1070,1083 3rd Cir. (1992) .....

West v. PECO, 45 F 3d 744 (3rd Cir. 1995).....

Harley v. McCoach, 928 F Supp. 533, 539 (E.D. Pa 1996) .....

Spence v. Maryland Casualty Co., 995 F. 2d, 1147 (2nd Cir. 1993).....

Clowes v. Allegheny Valley Hospital, 991 F. 2d, 1159 (3rd Cir. 1993) .....

See Hong, supra, 993 F. 2d at 1262 .....

Bullock v. Children's Hosp. (1996).....

Hudson v. National Academy of Sciences, 816 F. Supp 774, 779-780 (D.D.C.) 1993.....

STATUTES

Section 503 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination.

TABLE OF AUTHORITIES - Continued

STATUTES - continued

The Office of Federal Contract Compliance Programs (OFCCP) insures that companies that do business with the Government promote affirmative action and equal employment opportunity on behalf of minorities.

CONSTITUTIONS

Title VII of the Civil Rights Act, 1964, 42 U.S.C. 2000 e-2(a) states that it shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation terms, conditions, or privileges of employment because of such individual's race.

PETITION FOR WRIT OF CERTIORARI

Petitioner Catherine Stove, Pro se respectfully requests this Court to issue a writ of certiorari to review the opinion of The United States Court of Appeals for the Third Circuit, which affirmed, the final order, judgment, in the School District of Philadelphia's favor.

OPINIONS BELOW

The Third Circuit Opinion herein is published in the United States Volume 30, page 100 (Third Circuit) 2000. Opinions of the District Court, 7-22-99, and, Judgment and Order; opinion from Third Circuit Court of Appeals, 7-18-2000.

JURISDICTION

On July 18, 20000 the Third Circuit issued its opinion invokes the jurisdiction of this Court pursuant to 28 U.S.C. 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Civil Rights Act of 1964, 42 U.S.C. 2000 e-2 may also apply because this petition questions the decisions the 11 circuit have made.

STATEMENT OF THE CASE

A. Factual Background

The School District of Philadelphia is a public facility. I Catherine Stove Pro se was employed by the School District of Philadelphia from 9-3-86 until 3-26-98. I was approved by PSER on 2-5-98 for retirement disability because I was harassed, discriminated against, and unequally treated by two supervisors.

B. Procedural Background

1. District Court Proceedings

On June 1, 1998, I Catherine Stove Pro se filed suit against The School District of Philadelphia for unequal treatment in employment. I sought all costs including punitive damages.

On July 22, 1999, the District Court entered an amended order in favor of the School District of Philadelphia. On July 18, 2000 The Third Circuit Court ordered judgment in favor of The School District of Philadelphia.

REASONS THE COURT SHOULD GRANT CATHERINE STOVE, PRO SE PETITION FOR A WRIT OF CERTIORARI

A. Third Circuit could be in conflict with other court appeals involving abusing its discretion.

B. The Third Circuit agreed with the School District of Philadelphia that I, Catherine Stove Pro se, did not suffer an adverse employment, did not have a constructive discharge, never advised the School District that if changes were not made I would leave, never asked for a transfer, never filed a grievance, and never was suggested to retire, never was threatened with a discharge. Why then was I approved for a PSER retirement disability check by the School District of Philadelphia on February 5, 1998?

The Third Circuit may lack jurisdiction, considering all false, incorrect, errors. The Third Circuit decision could have been erroneous according to 10p Chapter 6, and also District Court may have abused their discretion.

Has the District Court and Third Circuit violated the Federal law?

Should I, Catherine Stove Pro se, being a law-abiding citizen, have been able to keep the confidence in the justice system?

If there is not a law as yet in 11 Circuit concerning Question 1 then maybe this court will create a law so that issue won't insult any other Pro se litigant.

I hope that I will be equally treated in this court because of the fact that the School District of Philadelphia is a local, public agency.

Magistrate Honorable Judge M. Faith Angell made a false statement in a document concerning my deposition dated 2-5-99.

Third Circuit Court may have left open a question concerning the Supreme Court powers.

Can it be an Equal Protection Claus to help discrimination?

Have my civil rights been violated by the School District of Philadelphia, District Court and also the Third Circuit?

Shouldn't every employee be treated equally by his or her employer?

1-28-97

Catherine Stove
SS# 201-36-8634
Custodial Assistant
Fitzsimons School #411

Ms. Stove,

Today, while I was in a meeting with my supervisor, Mr. Copies, I received a phone call from the nurse. She stated that her room wasn't cleaned and it hadn't been touched in a long time. She also told me that she often has to disinfect her office. Frankly she is tired of her office being dirty.

Mr. Copes and I went up to the nurse's office and you could tell it wasn't cleaned. Then we walked to your station and found dust on top of lockers, paper on the hallway floor, water fountain not cleaned, stairways dusty, and the main office dirty.

I had to stop Ms. Massey (custodial assistant) from cleaning her gym to clean up the nurse's office. I cannot keep pulling people from their work to cover yours. This school is under-staffed and by not doing your job it is beginning to drain our custodial department. I feel we have to have a meeting or hearing to resolve this problem, because we can't be headed in this direction much longer.

s/_____
Frank Malandra
Building Engineer

cc: Mr. Bailey
Mr. Copes
Local 1201

GRIEVANCE FORM:
Local 1201 International Brotherhood of Fireman and Oilers

Date Submitted: 1/31/97
Name of Grievant: Catherine Stove
Position: Custodial Assistant
School or Department: FMS
Principal/Supervisor: Mr. Copes

SECTION FOR GRIEVANT: BRIEFLY STATE THE PROBLEM INDICATING PROVISIONS OF AGREEMENT, POLICY OR PRACTICE INVOLVED.

October 1996, I started work at Fitsimons. I come to work every day, and do my job. Mr. Copies, started harassing me, in January 1997 about my work. k Due to people being out, I had to do their job, and my job, and did not get any assistance from the Building Engineer. I feel that it's unfair for me to be held accountable for the buildings condition.

WHEN DID GRIEVANT HAVE ORAL DISCUSSION WITH PRINCIPAL OR SUPERVISOR? _____

WHAT REMEDY IS SOUGHT?

To be transferred from District 4 and to have Bill Copes to stop harassing me.

_____ s/_____
DATE GRIEVANT'S SIGNATURE

SECTION FOR PRINCIPAL OR SUPERVISOR

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CATHERINE STOVE	:	CIVIL ACTION
	:	
v.	:	
	:	
PHILADELPHIA SCHOOL DISTRICT	:	NO. 98-2607
	:	

ORDER

AND NOW, this 8th day of January 1999, after holding a Rule 16 initial pretrial conference in the above-captioned matter, it is hereby **ORDERED** that:

1. By January 18, 1999, the parties shall exchange self-executing disclosures. In order to meet this requirement, Plaintiff must give to Counsel for the School District: (1) a copy of all pieces of paper which she believes are important to her claims and (2) a list of persons, with their names and addresses (if known to Plaintiff), who have knowledge of what happened to her while she was working for the School District.

2. After the parties have exchanged documents and lists of witnesses, the School District intends to ask Plaintiff to testify under oath, in a recorded deposition, about what she believes happened to her which led her to file this lawsuit. The School District will arrange to have the deposition recorded. It will be held in my courtroom, Courtroom 3-H, 3rd Floor, U.S. Courthouse, 601 Market St., Philadelphia, PA

19106. Plaintiff and Counsel for the School District are to agree upon the date and time.

3. After the Plaintiff's deposition has been completed, I will speak to the parties about the next step in this lawsuit. It is my understanding that the School District intends to seek a ruling on whether Plaintiff meets the legal requirements to continue this action.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CATHERINE STOVE	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	
SCHOOL DISTRICT OF PHILA.	:	
	:	
Defendant.	:	
	:	
	:	NO. 98-2607

ORDER

AND NOW on this 22d day of July, 1999, upon consideration of the motion of defendant School District of Philadelphia for summary judgment (Document No. 17) and the response of the plaintiff Catherine Stove thereto (Document No. 18), and the supporting memoranda, pleadings, discovery exhibits, and affidavits submitted by the parties, having found that there is no genuine issue of material fact, and that the defendant is entitled to judgment as a matter of law, and for the reasons set for in the foregoing memoranda, it is hereby ordered that the motion of the School District of Philadelphia is GRANTED, and judgment is entered in favor of the defendant against the plaintiff.

This is a final Order.

s/_____
LOWELL A. REED, JR., S.J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-1639

CATHERINE STOVE,

Appellant

v.

PHILADELPHIA SCHOOL DISTRICT

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civ. No. 98-02607)

SUR PETITION FOR REHEARING
BEFORE ORIGINAL PANEL

BEFORE: GREENBERG, NYGAARD, and BARRY,
Circuit Judges

The petition for panel rehearing filed by appellant Catherine Stove in the above entitled case having been submitted to the judges who participate din the decision of this court, and no judge who concurred in the decision having asked for rehearing, the petition for rehearing is denied.

BY THE COURT:

s/ _____

DATED: July 18, 2000

U. S. COURT OF APPEALS FOR THE THIRD CIRCUIT
NO. 99-1639

CATHERINE STOVE,
Appellant,
v.
PHILADELPHIA SCHOOL DISTRICT

On Appeal From the United States District Court
For the Easters District of Pennsylvania
(D.C. Civ. No. 98-cv-02607)
District Judge: Honorable Lowell A. Reed, Jr.

Submitted Under Third Circuit LAR 34.1(a)
May 26, 2000

Before: GREENEBERG, NYGAARD, AND BARRY, CIRCUIT JUDGES

JUDGMENT

This cause came on to be heard on the record from the United States District Court for the Eastern District of Pennsylvania. On consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered on July 22, 1999 be, and the same is, hereby affirmed.

Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:
s/_____
Acting Clerk

DATED: May 26, 2000

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 99-1639

CATHERINE STOVE

Appellant

v.

PHILADELPHIA SCHOOL DISTRICT

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civ. No. 98-02607)

SUR PETITION FOR REHEARING
BEFORE ORIGINAL PANEL

BEFORE: GREENBERG, NYGAARD, and BARRY,
Circuit Judges

The petition for panel rehearing filed by appellant Catherine Stove in the above entitled case having been submitted to the judges who participated in the decision of this court, and no judge who concurred in the decision having asked for rehearing, the petition for rehearing is denied.

BY THE COURT:

s/_____

employer suggested that she resign or retire, that she was demoted or had her pay reduced, or that she was transferred to a less desirable position or had her responsibilities altered in any way. See Clowes, 991 F.2d at 1161. Furthermore, like the plaintiff in Clowes, Stove never requested a transfer to another position, never advised the School District that she would have to leave if changes were not made, and never filed a grievance. Id. Moreover, like the plaintiff in Clowes, Stove Relies too heavily on the impact that the events in question had on her. As the Court of Appeals in Clowes noted, the law does not permit the subjective perceptions of the plaintiff-employee to govern a claim of constructive discharge. See id. at 1161-1162. Here, as in Clowes, the fact that Stove suffered depression and anxiety is not sufficient to establish a claim of constructive discharge. The plaintiff, therefore, cannot establish that she was constructively discharged. Thus, Stove fails to establish that she suffered an adverse employment action as a result of the alleged discriminatory treatment by Copes.

C. JOB PERFORMANCE

Stove fails to establish that she performed her job satisfactorily. She does not deny that the condition of her work station failed to meet building standards. Nor does she offer any evidence to the contrary. In addition, Stove admitted that she had difficulty arriving at work on time, and there were times when she left work without having fulfilled her responsibilities (Stove Dep. at 25, 31). Moreover, when confronted about her job performance, Stove began screaming and tore up the disciplinary memo given to her by Malandra. (Stove Dep. at 39-40). Thus, Stove cannot establish that she performed her job satisfactorily.

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 United States Courthouse
Philadelphia, PA 19106-1790

July 26, 2000

Mr. Michael E. Kunz
Eastern District of Pennsylvania
U.S. District Court
2609 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

RE: **Docket No. 99-1639**
Stove vs. Phila Sch Dist
D. C. CIV. No. 98-cv-02607

Dear Mr. Kunz:

Enclosed is a certified copy of the judgment in the above-entitled case(s), together with copy of the opinion. The certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.

(x) We return herewith the certified record in the case(s).

( ) We release herewith the certified list in lieu of the record.

Kindly acknowledge receipt for same on the enclosed copy of this letter.

Counsel are advised of the issuance of the mandate by copy of this letter. A copy of the certified judgment is also enclosed showing costs taxed, if any.

Very truly yours,
MARCIA M. WALDRON
Acting Clerk
s/Debra L. Ruh
By: Debra L. Ruh
Case Manager

Enclosure

COMMONWEALTH OF PENNSYLVANIA PUBLIC SCHOOL EMPLOYES' RETIREMENT SYSTEM

February 5, 1998

Catherine E. Stove
2415 N. Natrona St.
Philadelphia, PA 19132-3328

S.S.# 201-36-8634

Dear Ms. Stove:

Your disability benefit was approved for one year by the Public School Employes' Retirement System (PSERS) medical examiners. An "application to Re-apply for Renewal of Disability Retirement" will be sent to you approximately three months prior to your renewal date to be completed by your physician and returned to PSERS at the above address.

You may not be employed in a public school either in or outside of Pennsylvania while receiving a disability benefit from PSERS. You may be employed elsewhere, but earnings limitations do apply until you reach age 62.

At the end of each year, you will receive an "Annual Earnings of a Disability Annuitant" form. On this form you will be required to report earned income (wages received) for the calendar year. Income from disability benefits, social security benefits, worker's compensation investment income, or dividends are not defined as "earned income" and are not to be listed on this form. When you reach age 62, the earnings form will no longer be required.

If you have any questions or need further assistance, please contact the Member Service Center at (717) 787-8540.

Sincerely,
s/_____
Eleanor D. Klein
Appeal and Disability Center

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYES RETIREMENT SYSTEM
BOX 125
HARRISBURG, PA 17108

FEB 12, 1998

CATHERINE E STOVE SS 201-36-8634
2415 N NATRONA ST
PHILADELPHIA PA 19132-3328

RETIREMENT

YOUR APPLICATION FOR RETIREMENT HAS BEEN RECEIVED IN OUR OFFICE.

IN APPROXIMATELY 45 DAYS WE WILL REQUEST A CHECK FOR YOU WHICH WILL COVER YOUR INITIAL RETIREMENT PAYMENT. AT THAT TIME YOU WILL ALSO BE ADDED TO THE PAYROLL AND WILL RECEIVE A LETTER EXPLAINING YOUR RETIREMENT BENEFITS.

IF WE CAN BE OF FURTHER ASSISTANCE, PLEASE CONTACT US AT AREA CODE 717-787-8540.

CENTRAL PROCESSING CENTER

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYES' RETIREMENT SYSTEM

MARCH 30, 1998

CATHERINE E. STOVE
7632 B. Williams Way
Elkins Park, PA 19027

SS NO 201-36-8634
RET TYPE DISABILITY

ESTIMATED BENEFIT

Your retirement has been calculated based on your option selection and the latest salaries and service on file in PSERS.

Monthly Option -MAXIMUM

Beginning 05/29/1998, your estimated monthly benefit will be $602.98 ($630.68 less $27.70 tax deduction).

In 7 to 10 business days a payment of $ 663.27 (outlined below) will be sent to you.

+ $	693.74	INITIAL MONTHLY PAYMENT (3/28/1998)
-	30.47	TAX DEDUCTED FROM INITIAL MONTHLY PAYMENT
	$663.27	NET CHECK

****

IMPORTANT.....IF YOU RECEIVED AN ESTIMATE FROM YOUR PSERS REPRESENTATIVE, YOUR SALARIES AND SERVICE WERE PROJECTED AND THE ABOVE AMOUNTS MAY DIFFER FROM THE ESTIMATE.

YOUR RETIREMENT WILL BE RECOMPUTED WITH THE FINAL REPORTS INDICATING ALL SALARIES AND SERVICE ARE RECEIVED IN PSERS.

****

COMMONWEALTH OF PENNSYLVANIA
PUBLIC SCHOOL EMPLOYES' RETIREMENT SYSTEM

June 1, 1999

Catherine E. Stove
7632B Williams Way
Elkins Park, PA 19027-1013

S.S.# 201-36-8634

Dear Ms. Stove:

Enclosed is an "Application to Re-Apply for Renewal of Disability Retirement" to be completed by your physician and returned to the Public School Employes' Retirement System (PSERS) by the first day of September 1999.

If the completed renewal application is not received by this date, your disability benefit will be suspended until the current medical data is received in this office and a determination is made by the PSERS medical examiners regarding the continuation of your benefit.

If you have any questions, please contact the Member Service Center by calling toll-free 1-888-773-7748 (1-888-PSERS4U); Harrisburg local callers, please use 787-8540. If you prefer, you may reach PSERS by FAX at 717-722-3860. For your convenience, the Member Service Center is staffed each business day from 7:00 a.m. to 6:00 p.m.

Disability Section

Enclosure